

CITY COUNCIL REPORT



Meeting Date: February 8, 2022
 General Plan Element: ***Sustainability***
 General Plan Goal: ***Establish and maintain an innovative, sustainable solid waste collection, recycling, and disposal delivery system for present and future generations.***

ACTION

Intergovernmental Agreement with Salt River Pima-Maricopa Indian Community: Adopt Resolution 12370 authorizing Intergovernmental Agreement (IGA) 2022-013-COS with the Salt River Pima-Maricopa Indian Community (SRPMIC) and its division Salt River Commercial Landfill Company for the handling and processing of recyclable materials.

BACKGROUND

The purpose of this action is to adopt a new Intergovernmental Agreement 2022-013-COS with the Salt River Pima-Maricopa Indian Community and its business enterprise, the Salt River Commercial Landfill Company.

The Salt River Landfill is owned and operated by SRPMIC and is located on 200 acres just north of State Route 87 (the Beeline Highway) at Gilbert Road on SRPMIC land. The facility opened in 1993 and the City of Scottsdale entered into its initial IGA (Agreement No. 940041) with SRPMIC in May 1994 for disposal services for non-hazardous wastes collected by the City's Solid Waste program. In January 2001, SRPMIC opened the Material Recycling Facility (MRF) at the property and began receiving and processing recyclable materials. The city utilized this MRF for the handling of all its recyclable materials, as outlined in IGA 2016-022-COS and prior IGAs for use of the facility.

On October 26, 2019, the SRPMIC MRF was irreparably damaged by a fire, terminating IGA 2016-022-COS for recyclable materials processing which was in effect at the time. Prior to the fire, the City had been delivering 100 percent of the recyclable material collected to this facility as called for in the IGA. Following the fire, the City negotiated and Council approved an IGA with the City of Phoenix to process a portion of the City's recyclable materials. SRPMIC is now undertaking the construction of a new MRF at the same location. The purpose of this action to adopt the new IGA 2022-013-COS to utilize this new MRF for the processing and handling of a portion of Scottsdale's collected recyclable materials.

ANALYSIS & ASSESSMENT

Recent Staff Action

Solid Waste Management staff has negotiated with SRPMIC officials to develop and finalize this agreement. The IGA requires the city to deliver a minimum of 50% of its recyclables to the facility, allowing for flexibility to continue using the City's existing IGA with the City of Phoenix. Having agreements with two different MRF's provides a backup in case of loss of capacity at one facility, and allows the City to take advantage of the most favorable pricing at any point in time.

The proposed agreement has a tiered processing fee, which allows the City to pay a lower fee if it brings a higher proportion of its recyclable material to the SRPMIC MRF. The processing fee will be offset by an amount equal to 80% of the revenue received through the sale of recyclable materials. The processing fee will be increased by 2.5 percent on an annual basis.

RESOURCE IMPACTS

Staffing, Workload Impact

Administration of this IGA is part of the Solid Waste department's annual work plan and requires no additional staffing. Solid Waste Management staff regularly meets and coordinates with SRPMIC staff on any necessary obligations or discussions.

Budget/Funding

The impacts of processing fee increases and fluctuations in the recycling markets are all incorporated into Solid Waste's annual fiscal year budget development. These impacts are estimated based on pricing structures and related increases and incorporated into the department's consistent analysis of rates. The fixed increase for processing rates outlined in this IGA will further assist in the accuracy of future estimations of budgetary needs and rate impacts.

OPTIONS & STAFF RECOMMENDATION

Recommended Approach

Adopt Resolution 12370 authorizing Intergovernmental Agreement (IGA) 2022-013-COS with the Salt River Pima-Maricopa Indian Community (SRPMIC) and its division Salt River Commercial Landfill Company for the handling and processing of recyclable materials.

Proposed Next Steps

SRPMIC is seeking approval of this agreement from their governing Council. Following authorization of this action by both Councils, the agreement will become effective upon the completion of the construction of the new SRPMIC MRF.

RESPONSIBLE DEPARTMENT(S)

Public Works Division, Solid Waste Management

STAFF CONTACTS (S)

Dave Bennett, Solid Waste Management Director; (480)312-5607; dbennett@scottsdaleaz.gov
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APPROVED BY



Daniel J. Worth, Public Works Director
480-312-5555; DaWorth@ScottsdaleAZ.gov

1-24-22

Date

ATTACHMENTS

1. Resolution 12370
2. Contract 2022-013-COS

RESOLUTION NO. 12370

A RESOLUTION OF THE COUNCIL OF THE CITY OF SCOTTSDALE, MARICOPA COUNTY, ARIZONA, APPROVING INTERGOVERNMENTAL AGREEMENT NO. 2022-013-COS WITH THE SALT RIVER PIMA-MARICOPA INDIAN COMMUNITY AND ITS DIVISION SALT RIVER COMMERCIAL LANDFILL COMPANY FOR THE HANDLING AND PROCESSING OF RECYCLABLE MATERIALS

WHEREAS, the City entered into a previous Recyclable Materials Handling Agreement with the Salt River Pima-Maricopa Indian Community and its division, the Salt River Commercial Landfill Company (SRPMIC/SRCLC) on March 1, 2016; and

WHEREAS, both parties now desire to enter into a new Intergovernmental Agreement (IGA) 2022-013-COS to allow for the processing and handling of a portion of Scottsdale's collected recyclable materials.

BE IT RESOLVED by the Council of the City of Scottsdale as follows:

Section 1. The Mayor of the City of Scottsdale is authorized and directed to execute Contract No. 2022-013-COS with SRPMIC/SRCLC, for the processing of recyclable materials in the City of Scottsdale.

PASSED AND ADOPTED by the Council of the City of Scottsdale this _____ day of _____, 2022.

CITY OF SCOTTSDALE, an Arizona
municipal corporation

ATTEST:

Ben Lane, City Clerk

David D. Ortega, Mayor

APPROVED AS TO FORM:

OFFICE OF THE CITY ATTORNEY



Sherry R. Scott, City Attorney

By: Eric C. Anderson, Senior Assistant City Attorney

**RECYCLABLE MATERIALS HANDLING AGREEMENT
BETWEEN
THE SALT RIVER PIMA-MARICOPA INDIAN COMMUNITY,
THE SALT RIVER COMMERCIAL LANDFILL COMPANY
AND
THE CITY OF SCOTTSDALE**

THIS RECYCLABLE MATERIALS HANDLING AGREEMENT (this "Agreement") is made and entered into as of _____, 2022, by and between the SALT RIVER PIMA-MARICOPA INDIAN COMMUNITY, a federally recognized Indian Tribe ("SRPMIC" or the "Community"), and its division, the SALT RIVER COMMERCIAL LANDFILL COMPANY ("SRCLC" or "Company"), and the CITY OF SCOTTSDALE, an Arizona municipal corporation ("Scottsdale") (individually, a "Party," and collectively, the "Parties"). For purposes of this Agreement, the Salt River Pima-Maricopa Indian Community and the Salt River Commercial Landfill Company shall be referred to collectively as "SRPMIC/SRCLC."

RECITALS

A. SRPMIC/SRCLC and Scottsdale have a long history of a mutually beneficial contractual relationship concerning the processing of Recyclable Materials.

B. SRPMIC/SRCLC and Scottsdale are committed to a waste management program that incorporates source reduction, recycling or reuse.

C. The Community and Scottsdale previously entered into that certain RECYCLABLE MATERIALS HANDLING AGREEMENT effective March 1, 2016 (City of Scottsdale Contract No. 2016-022-COS) and a letter of understanding related thereto on or about April 22, 2020 (collectively the "Prior Agreement").

D. The Parties intend that the Prior Agreement, and any other prior agreements pertaining to the subject matter hereof (with the exception of the Solid Waste Disposal Facilities Agreement, No. 2016-023-COS dated March 1, 2016, and any amendments thereto), are hereby superseded by this Agreement, but that the Prior Agreement shall remain in full force and effect until the Effective Date of this Agreement.

E. The Community and Scottsdale now desire to enter into this Agreement, superseding the Prior Agreement, to provide, among other changes, for (i) modifications to the Recyclable Materials fee/revenue sharing calculation and (ii) extending the term during which SRPMIC/SRCLC will provide Recyclable Materials processing services to Scottsdale.

AGREEMENT

NOW, THEREFORE, in consideration of the foregoing recitals, which are incorporated herein by this reference, the following mutual covenants and conditions, and other good and valuable consideration, the receipt and sufficiency of which are hereby acknowledged, the SRPMIC/SRCLC and Scottsdale hereby agree as follows:

ARTICLE 1 - DEFINITIONS

In addition to the terms defined above or elsewhere in this Agreement, the Parties agree that the following terms shall have the meanings noted, except where the context clearly indicates otherwise:

1.1. “#5 Plastic” means polypropylene, such as medicine bottles, ketchup bottles, syrup bottles, clam shell containers and some yogurt containers.

1.2. “Billing Month” means each calendar month.

1.3. “CPI” means the Consumer Price Index, published by the U.S. Bureau of Labor Statistics, All Urban Consumers, U.S. City Average, All Items (1982-84=100). If, on a relevant date, the CPI does not exist in the above format, SRPMIC/SRCLC will substitute any official index published by the Bureau of Labor Statistics, any successor agency, or similar governmental agency, which is then in existence and which is then most nearly comparable to the CPI.

1.4. “Effective Date” has the meaning set forth in Section 6.1.

1.5. “Excess Residue” means the quantity of Residue that exceeds, by weight, 15% of the Inbound Materials delivered by Scottsdale, as determined by the most recent Hand Classification Sort.

1.6. “Facility” means the municipal solid waste landfill unit, as defined by 40 C.F.R. § 258.2, owned, operated and maintained by SRPMIC/SRCLC, located between the Arizona Canal and the Beeline Highway just east of the Gilbert Road alignment, as depicted on the map attached hereto as Exhibit B.

1.7. “Force Majeure” means any act, event or condition materially and adversely affecting the ability of a Party to perform or comply with any material obligation, duty or agreement required under this Agreement, if such act, event, or condition is beyond the reasonable control of the nonperforming Party or its agents relying thereon, is not the result of the willful or negligent action, inaction or fault of the Party relying thereon, and the nonperforming Party has been unable to avoid or overcome the act, event or condition by the exercise of due diligence, including, without limitation: (A) an act of God, pandemic, epidemic, landslide, lightning, earthquake, fire, explosion, storm, flood or similar occurrence; (B) an act of public enemy, war, blockage, insurrection, riot, general unrest or restraint of government and people, civil disturbance or disobedience, sabotage, act of terrorism or similar occurrence; (C) an order or judgment (including without limitation a temporary restraining order, temporary injunction, preliminary injunction,

permanent injunction, or cease and desist order) or other act of any federal, state, county or local court, administrative agency or governmental office or body which prevents a Party's obligations as contemplated by this Agreement; or (D) adoption or change (including a change in interpretation, enforcement or permit requirement) of any federal, state or local law after the Effective Date of this Agreement, preventing performance of or compliance with the obligations hereunder.

1.8. "Hand Classification Sort" is the process of sorting Inbound Material as described on Exhibit C.

1.9. "Hand Classification Sort Percentages" means the percentage of *Recyclable Materials by composition and the percentage of Residue present in Scottsdale's Inbound Materials* as determined by a Hand Classification Sort described on Exhibit C.

1.10. "Hazardous Waste" means any hazardous waste as defined in 42 U.S.C. § 6903(5), as the same may be amended or superseded.

1.11. "HDPE" means high-density polyethylene.

1.12. "Holiday" means any day recognized as a Holiday by the State of Arizona, the United States or the Community.

1.13. "Inbound Material" means Recyclable Materials, Residue and other materials delivered to the MRF other than Regulated Waste.

1.14. "Medical Waste" means any medical waste as defined in the Section R18-13-1401 of the Arizona Administrative Code, as the same may be amended or superseded.

1.15. "Metal" means metal, such as copper, aluminum, brass, and steel materials.

1.16. "Mixed Paper" means paper that can tear and is not contaminated with food or oil.

1.17. "Mixed Plastic" means plastic #3, #4, #6 and #7.

1.18. "MRF" means the materials recovery facility used for the receiving, weighing, sorting, and otherwise processing of Recyclable Materials, constructed and located within the exterior boundaries of the Facility.

1.19. "OCC" means Grade 11, old corrugated cardboard.

1.20. "ONP" means Grade 8, old newsprint.

1.21. "Operator" means the operator of the MRF selected by SRPMIC/SRCLC.

1.22. "Operational" means the MRF is operating and able to accept Inbound Materials.

1.23. "PET" means polyethylene terephthalate, which is a form of polyester

1.24. "Processing Fee" means the amount paid to Operator per Ton delivered to the MRF by Scottsdale in the initial amount of \$83.00 per Ton, as adjusted in accordance with this Agreement.

1.25. "Rate Adjustment" means (i) a fraction, the numerator of which is the CPI for April of the then-current year and the denominator of which is the CPI for April of the previous calendar year, for the purpose of adjustments to the Transfer Fee set forth in Section 4.6 below, and (ii) 2.5% for the purposes of adjustments to the Processing Fee.

1.26. "Rate Change Date" is July 1 of each year during the term of this Agreement, beginning on July 1, 2023.

1.27. "Recyclable Materials" means any post-consumer materials that are collected for delivery and processing at a materials recovery facility as Inbound Materials and that are not separated as to source (i.e. glass, aluminum, newspaper), including without limitation: (A) green, amber and clear glass food and beverage containers; (B) aluminum beverage containers; (C) aluminum foil and tin/steel containers; (D) newsprint, writing paper; corrugated paper, white paper, colored paper, envelopes, direct mailings, magazines, and telephone books; (E) aerosol cans; (F) all cups and containers with imprinted recycling numbers 1 – 7; (G) aseptic boxes; (H) polycoated containers; (I) and other such materials as the Parties may jointly designate in writing as Recyclable Materials at a later date. Recyclable Materials do not include Hazardous Waste.

1.28. "Regulated Waste" means: (A) Hazardous Waste; (B) Medical Waste; (C) radioactive, volatile, corrosive, highly flammable, explosive, biomedical, infectious, biohazardous, or toxic waste as defined by Applicable Law; or (D) any waste regulated by a governmental entity with jurisdiction to make such determinations.

1.29. "Residue" means material that is delivered to the MRF that is rejected prior to or during processing or that is deemed non-processible by Operator and removed and disposed of as Solid Waste.

1.30. "Revenue Share" means 80% of the actual SOM Price derived from the sale of Recyclable Materials under this Agreement that is allocated to the Customers.

1.31. "Scottsdale Vehicle" means a vehicle or transfer trailer used in making a Scottsdale Delivery.

1.32. "Scottsdale Delivery" means a delivery of Recyclable Materials to the MRF by or on behalf of Scottsdale under the terms of this Agreement.

1.33. "SOM Price" means sale of materials price.

1.34. "Substantially Completed" means the MRF building has been completed and the recycling processing equipment is in the process of being installed at the MRF.

1.35. "Tare Weight" means the recorded weight of an unloaded Scottsdale Vehicle.

1.36. "Ton" means a short ton of 2,000 U.S. pounds.

1.37. "Transfer Fee" is defined in Section 4.6.

1.38. "Transfer Station" means the Scottsdale-owned facility located at Union Hills Drive west of Pima Road, which serves as a collection point for the delivery of a portion of the Recyclable Materials collected by Scottsdale Vehicles.

1.39. "UBC" means used aluminum beverage cans.

ARTICLE 2 – ENVIRONMENTAL PROTECTION STANDARDS

2.1 Compliance with Law. SRPMIC/SRCLC shall develop, design, operate, close, and maintain during post-closure, the MRF in compliance with Community laws and regulations, all applicable Federal laws and regulations, and any other applicable laws and regulations.

2.2 Environmental Protection Adjustments. In the event: (i) either Party is of the opinion that protection of the environment requires the installation of devices, equipment, or material or new methods of operation, and the required installation or new methods of operation changes capital investment or operating costs of the MRF; or (ii) an adoption or change (including a change in interpretation, enforcement or permit requirement) of any federal, state or local environmental law or regulation after the Effective Date of this Agreement impacts the capital investment or operating costs of the MRF, then the Parties shall meet within 30 days after a Party has by written notice notified the other Party of such event. The Parties shall confer about any new fee schedule that will be required as the result of any such change. If SRPMIC/SRCLC and Scottsdale fail to agree on a new fee schedule, then the Parties shall mediate the controversy with an independent engineer or mediator acceptable to all Parties. Thereafter, continued disagreement shall be resolved under the arbitration provisions of Section 5.3.3 of this Agreement. During the period of any such disagreement, no changes will be required to the MRF as requested by a Party and no corresponding changes shall be made to the Processing Fee pending resolution of the dispute.

ARTICLE 3 - RECYCLABLES SORTING AND MARKETING SERVICES

3.1 MRF Location and Capacity. SRPMIC/SRCLC will construct, or cause to be constructed, the MRF within the exterior boundaries of the Facility. The MRF will be equipped to process commingled Recyclable Materials up to 280 Tons per day.

3.2 Delivery of Recyclable Materials Requirement. Not less than 50% of all Recyclable Materials collected by or on behalf of Scottsdale (the "Guaranteed Recycling Tonnage") shall be delivered to the MRF.

3.3 MRF Acceptance of Recyclable Materials. SRPMIC/SRCLC shall require the Operator to receive for sorting, processing and marketing all Recyclable Materials delivered to the MRF by or on behalf of Scottsdale. SRPMIC/SRCLC shall require the Operator to ensure that the MRF is operated to allow standard refuse-hauling compactor trucks and transfer trailers hauling on behalf of Scottsdale to access the interior tipping floors easily and to exit the MRF with minimal maneuvering, backing up, or other safety risks. SRPMIC/SRCLC shall require the Operator to provide qualified personnel at the MRF during the hours the MRF accepts Recyclable Materials. SRPMIC/SRCLC shall provide a smooth and paved road from the nearest public right-of-way to the MRF.

3.4 Operating Standards.

3.4.1 Operation, Security. SRPMIC/SRCLC shall be responsible for the operation of the MRF. SRPMIC/SRCLC shall operate or cause to be operated the MRF in compliance with: (A) all normal and customary operating and safety procedures typical of a municipal materials recovery facility; and (B) all necessary permits, licenses, and other approvals. SRPMIC/SRCLC shall provide security for the MRF at a level comparable to the level of security provided at similar types of facilities within the United States. SRPMIC/SRCLC shall comply with all applicable Federal and Community laws and regulations in relation to the MRF.

3.4.2 Receipt of Inbound Materials. Subject to the terms and conditions of this Agreement, SRPMIC/SRCLC will ensure that Operator will receive Inbound Materials at the MRF on Monday through Friday, from 6:00 a.m. to 5:00 p.m. during all times while this Agreement is in effect other than Holidays and subject to Section 6.26 below. SRPMIC/SRCLC will ensure that Operator shall receive Inbound Materials at the MRF on Saturdays and on Holidays that SRPMIC/SRCLC collect Inbound Materials, but Operator shall not be required to process such material until its next operating weekday.

3.4.3 Unloading Times. SRPMIC/SRCLC will ensure that Operator will exercise reasonable efforts, subject to the design capacity of the MRF with respect to the number of trucks that can be unloaded at the same time, not to exceed the following unloading times between the arrival of a Scottsdale Vehicle at the MRF and the weighing and unloading of that truck: (A) 15 minutes, on the average for all trucks; (B) 30 minutes maximum for any single truck; (C) 25 minutes maximum for 80% or more of the trucks. Unloading time shall be measured from the time the Scottsdale Vehicle enters the MRF and ends when it exits the MRF. Scottsdale acknowledges that these parameters may be exceeded if many trucks arrive at the MRF at approximately the same time or if delays are caused by the discovery of Regulated Waste that requires special handling or response.

3.4.4 Payments for Recycling.

A. Processing Fee. Scottsdale shall pay SRPMIC/SRCLC, either directly or through its Operator as determined by SRPMIC/SRCLC in its sole discretion, the Processing Fee for each Ton of Inbound Materials delivered to the MRF by or on behalf of Scottsdale. The Processing Fee shall be adjusted pursuant to Section 3.4.7(B) and Section 3.4.7(C). Each month, SRPMIC/SRCLC or the Operator will send Scottsdale an invoice setting forth the Processing Fee minus the Revenue Share for that month, and the net amount due to SRPMIC/SRCLC.

B. Rate Adjustments. On each Rate Change Date, the Processing Fee shall be increased by an amount equal to the then-current Processing Fee multiplied by the Rate Adjustment. Additionally, pursuant to Section 2.2, the parties agree to reasonably discuss any extraordinary unforeseen changes in taxes, fees or other governmental charges (other than income or real property taxes) that occur after the date of this Agreement.

C. Tiered Pricing True-Up. At the end of each calendar year during the Term of this Agreement, Scottsdale shall notify Operator of the actual percentage of the total Scottsdale tonnage of Recyclable Materials that was delivered to the MRF or on behalf of Scottsdale during the previous year. In accordance with the percentage of total Inbound Materials delivered during the calendar month, the amount of the Processing Fee will be as set forth on Exhibit D. The City guarantees a minimum of 50% of the total tonnage collected annually by the City to be delivered to the MRF. At the end of each calendar year of the Term, if it is determined that less than 50% of the total tonnage was delivered during such calendar year, Operator shall charge the City for the undelivered tonnage to meet the minimum 50% threshold. If SRPMIC/SRCLC determines, in its sole judgment, that it is unable to verify whether 50% of the total tonnage was delivered, then SRPMIC/SRCLC or Operator may request, and Scottsdale shall provide to SRPMIC/SRCLC and Operator, documentation evidencing the total volume collected by Scottsdale during the applicable time period. SRPMIC/SRCLC shall provide Scottsdale with written notice of the amount due based on such calculation, and Scottsdale shall pay such amount to SRPMIC/SRCLC within 30 days of receiving written notice.

3.5 Maintenance of MRF.

3.5.1 Lighting. During the hours that the MRF is open to accept Recyclable Materials, SRPMIC/SRCLC shall ensure that adequate artificial light to minimize safety risks in the delivery and operation of the MRF is provided as follows: (A) in the interior of the MRF, at all times when the MRF accepts Recyclable Materials; and (B) in the exterior and peripheral areas of the MRF during the early morning and late afternoon periods of diminished natural light.

3.5.2 Storage. SRPMIC/SRCLC shall ensure that the MRF has sufficient internal and/or external storage area to store a minimum of 75 Tons of processed and baled Recyclable Materials.

3.5.3 Truck Clean-Out. SRPMIC/SRCLC shall be responsible for ensuring that the MRF has an area dedicated for cleaning out Scottsdale Vehicles by Scottsdale drivers before leaving the MRF in a designated bay, including providing debris bins for the driver's use.

3.5.4 Protection from Weather. SRPMIC/SRCLC shall cause its Operator to maintain the MRF in the manner necessary to protect the Recyclable Materials and MRF operations from adverse weather conditions to the extent necessary to preserve the value of the material.

3.6 Hand Classification Sorting, Residue, Hazardous Waste, Regulated Waste.

3.6.1 Hand Classification Sort Percentages. The initial Hand Classification Sort Percentages determination for the first full year of the Term is set forth on Exhibit C. Thereafter, Hand Classification Sorting shall be conducted as set forth in this Section.

A. Regularly Scheduled Hand Classification Sort. During the last six months of the first year of the Term, and at least once every year thereafter on a date selected by Operator with at least two business days' notice to SRPMIC/SRCLC and Scottsdale, SRPMIC/SRCLC shall cause Operator to perform a Hand Classification Sort of Scottsdale's Inbound Materials. SRPMIC/SRCLC shall provide for all labor and equipment necessary to perform the Hand Classification Sort. Scottsdale may have representatives present during the Hand Classification Sort.

B. Requests for Sampling. Within 30 days of a Hand Classification Sort, either Party may direct one additional Hand Classification Sorts upon prior written notice of two business days to the other Party and Operator. All Hand Classification Sorts shall be performed in compliance with this Section 3.6. Thereafter, if Scottsdale requests an additional sort, Scottsdale may direct an additional Hand Classification Sort upon at least two business days' prior written notice to the Operator. After such second additional sort, the results of either the first or second Hand Classification Sort will be used at Scottsdale's sole discretion.

C. Use of Sort Percentages. The Hand Classification Sort Percentages shall be used to determine the SOM Price and Revenue Share from that point in time until the next Hand Classification Sort as more fully set forth on Exhibit C.

D. Delivery of Report. SRPMIC/SRCLC shall be responsible for providing Scottsdale with a report of each Hand Classification Sort that shows for each load of sorted Recyclable Materials the amount of the net total weight (LBS/2000 LBS) of the load and the weight of each of the individual commodities as a percentage of the total load delivered.

3.6.2 Disposal of Residue, Cost. SRPMIC/SRCLC shall dispose of all Residue at the Facility as Solid Waste. Scottsdale shall not be charged for costs associated with the disposal of all Residue delivered to the MRF; provided, however, that

the Residue constitutes 15% or less by weight of the Recyclable Materials delivered, as determined by the Hand Classification Sort Percentages. If the Hand Classification Sort Percentages identify Excess Residue, then Scottsdale shall pay to SRPMIC/SRCLC the following: \$31.50 per Ton for Excess Residue comprising 15-20% of Inbound Materials; and \$40.00 per Ton for Excess Residue comprising greater than 20% of Inbound Materials.

3.6.3 Hazardous Waste. If Medical Waste or Hazardous Waste is present within the Inbound Materials delivered by Scottsdale to the MRF, SRPMIC/SRCLC shall notify Scottsdale within four hours after the discovery of such Medical Waste or Hazardous Waste. Upon notification to Scottsdale by SRPMIC/SRCLC, Scottsdale shall either cause a qualified non-Party to perform the transportation, cleanup, removal and disposal of all Medical Waste and/or Hazardous Waste proven to be delivered to the MRF by Scottsdale, or shall itself undertake such transportation, cleanup, removal and disposal. To the extent permitted by law, so long as the Medical Waste and/or and Hazardous Wastes are of a type and scope that can be segregated and temporarily put aside so that the MRF's ability to sort and process materials is not impeded, disrupted, or shut down, and so long as the health and safety of employees of the MRF are not put at risk in the sole discretion of the Operator, the deadline for Scottsdale's removal of such wastes shall be extended up to 48 hours from the time Scottsdale is notified. If such Medical Waste and/or Hazardous Waste are of the type and scope that cannot be segregated and temporarily set aside, these wastes shall be removed no later than close of business of the day in which they were discovered, except where such wastes are delivered after 2:00 p.m. in which case they shall be removed by 12:00 noon of the following day. Any costs associated with the transportation, cleanup, removal and disposal of Medical Waste and/or Hazardous Waste found in Scottsdale's Inbound Materials shall be the responsibility of Scottsdale.

3.6.4 Regulated Waste.

A. **No Delivery of Regulated Waste.** Scottsdale will (i) exercise due diligence to prevent its deliveries from containing Regulated Waste, (ii) comply with all applicable laws relating to Regulated Waste and (iii) indemnify SRPMIC/SRCLC and Operator for all damages and expenses resulting from the delivery of Regulated Waste to the MRF.

B. **Notification and Removal Process.** Scottsdale shall promptly pick up the Regulated Waste from the MRF and dispose of it in accordance with applicable law at no expense to SRPMIC/SRCLC or Operator.

C. **Cost Reimbursement.** Scottsdale shall reimburse SRPMIC/SRCLC and/or Operator for all costs, expenses, and unavoidable losses incurred by Operator directly in connection with the delivery of such Regulated Waste, and Scottsdale will defend, indemnify and hold SRPMIC/SRCLC and Operator harmless from and against all third party claims arising out of or resulting from the delivery of such Regulated Waste, except to the extent such claims result from the negligence of Operator.

3.7 Weighing Inbound Materials.

3.7.1 Accurate Scales. SRPMIC/SRCLC shall provide accurate scales to weigh all vehicles delivering Inbound Materials to the MRF. SRPMIC/SRCLC shall have the scales certified semi-annually by an independent testing firm qualified to perform such tests within the State of Arizona or have an appropriate Arizona governmental agency conduct the testing. SRPMIC/SRCLC shall provide Scottsdale with copies of all test results for the scales within 10 business days after SRPMIC/SRCLC's receipt of such test results.

3.7.2 Weighing Loads. SRPMIC/SRCLC shall weigh each load of Inbound Materials delivered to the MRF by or on behalf of Scottsdale and shall record said load's net weight (gross weight minus Tare Weight) according to the delivery vehicle identification number. SRPMIC/SRCLC may require the drivers of Scottsdale Vehicles to weigh their empty trucks at SRPMIC/SRCLC's scale no more than once per month in order to determine current accurate Tare Weight.

3.8 Records. SRPMIC/SRCLC shall maintain records and reports summarizing the MRF operations. SRPMIC/SRCLC shall furnish a statement to Scottsdale, on or before the last day of each Billing Month, which provides Scottsdale with a monthly report for the previous Billing Month for each delivery of Inbound Materials delivered to the MRF by or on behalf of Scottsdale. Such statement shall contain the following information:

3.8.1 Delivery Information.

- A. The date and time of the delivery;
- B. The delivery vehicle identification number;
- C. The gross weight of the delivery vehicle;
- D. The Tare Weight of the delivery vehicle; and
- E. The net weight of the load of Inbound Materials delivered.

3.8.2 Summary Information. SRPMIC/SRCLC shall provide the following summarized information related to Scottsdale's delivery of Inbound Materials on a quarterly basis:

- A. The tonnage of Inbound Materials delivered by Scottsdale;
- B. The tonnage of Residue and Excess Residue;
- C. The Processing Fees;
- D. The costs associated as a result of any Regulated Waste delivered by Scottsdale; and
- E. The amount of credit owed by SRPMIC/SRCLC to Scottsdale under Section 3.9 (Revenue Share, Recyclable Materials);

3.9 Revenue Share. The Parties intend that Scottsdale shall receive from SRPMIC/SRCLC a credit equal to the Revenue Share per ton shipped by SRPMIC/SRCLC from the MRF, which shall be calculated as set forth in Exhibit C.

3.10 Title to Inbound Materials. Scottsdale shall retain title and responsibility for the Inbound Material until it is delivered to the MRF. Upon delivery to the MRF, title to all Residue and Recyclable Materials shall pass to SRPMIC/SRCLC and shall be the responsibility of SRPMIC/SRCLC. Scottsdale shall continue to retain title and responsibility for Medical Waste, Regulated Waste and Hazardous Waste delivered to the MRF by or on behalf of Scottsdale

3.11 Temporary Loss of Capacity at MRF.

3.11.1 Loss of Processing Capacity. If SRPMIC/SRCLC experiences a significant loss of capacity that renders it unable to accept and process Inbound Materials or if equipment shortcomings cause a decrease in processing capacity, SRPMIC/SRCLC shall correct any mechanical problem or other issue affecting the MRF's processing system. SRPMIC/SRCLC shall diligently proceed with such correction until completed.

3.11.2 Force Majeure. If the MRF is rendered inoperable due to a Force Majeure event, SRPMIC/SRCLC will ensure that Operator shall pay Scottsdale for any increased transportation costs for Scottsdale during any period in which the MRF is rendered inoperable due to a Force Majeure Event. Notwithstanding the foregoing, if the Operator exercises any termination rights that it has under the Ground Lease due to a Force Majeure event that renders the MRF inoperable, then the payments due pursuant to this Section 3.11.2 and all other obligations pursuant to this Agreement shall cease, effective as of the date that Operator provided notice of termination.

3.11.3 Alternative MRF. At any time during a period of a significantly decreased processing capability or total loss of processing capacity after the opening of the MRF for processing, including during a Force Majeure event, Operator may designate a substitute alternative materials recovery facility or receiving facility within a 50-mile radius of the MRF that is willing and available for acceptance, processing and marketing of the Inbound Materials delivered by or on behalf of Scottsdale during the period of inoperability ("Alternative MRF"). If Operator designates an Alternative MRF, Operator will instruct Scottsdale on whether to deliver Inbound Materials to the MRF as provided in this Agreement or directly to the Alternative MRF or other transfer facility. If Operator instructs Scottsdale to deliver to the MRF, Operator shall transport, at Operator's expense, the Inbound Materials to the Alternative MRF for acceptance, processing and marketing, and Operator shall pay the difference, if any, between the Processing Fee and the processing fees charged by the Alternative MRF. If Operator instructs Scottsdale to deliver directly to the Alternative MRF, Operator shall pay the difference, if any, between Scottsdale's transportation costs and processing fees for delivering Inbound Materials to an Alternative MRF and the transportation costs and Processing Fee for delivery to the MRF; provided, however, that if Scottsdale's transportation costs to deliver Inbound Materials to the Alternative MRF exceed those that Scottsdale would have incurred in

delivering to the MRF, Operator shall have the option to arrange for the transportation of the Inbound Materials to the Alternative MRF for a lower rate.

3.11.4 Delivery of Transfer Loads to Alternative MRF. When providing transfer services under Article 4, SRPMIC/SRCLC may deliver transferred Inbound Materials loads directly to the Alternative MRF at any time. If SRPMIC/SRCLC chooses to deliver transferred Inbound Materials loads to an Alternative MRF, then Scottsdale will continue to pay the then-current Transfer Service Fee for each ton delivered. Scottsdale will not be required to pay any incremental costs for delivering transferred Inbound Materials loads to an Alternative MRF in excess of the Processing Fee paid to Operator.

3.11.5 Shipping Interruptions: Processing capacity can also be impacted by third party actions that impact the MRF's ability to ship recovered materials to end markets. Activities that may interrupt regular shipping may include, but are not limited to, labor actions such as strikes and work slowdowns, long-term disruptions in transportation corridor infrastructure (e.g. roadway, highway or rail infrastructure damages), or other activities outside the control of either the City or SRPMIC/SRCLC. The Parties agree, that should such an event arise, they will negotiate in good faith appropriate remedies and cost sharing to provide for ongoing service while such shipping interruptions impact MRF operations. Should any labor actions such as strikes and work slowdowns occur as a result of activities within the control of SRPMIC/SRCLS, SRPMIC/SRCLS shall take such actions as are reasonable and necessary under the circumstances to ensure that the services contracted for herein continue without significant interruption.

ARTICLE 4 - TRANSFER SERVICES

4.1 Transfer Services. SRPMIC/SRCLC shall provide transfer services for all Scottsdale-collected Recyclable Materials from the Transfer Station to the MRF as provided in this Article. SRPMIC/SRCLC may contract out for transfer services provided that the standards set out in this Article are adhered to and remain the ultimate responsibility of SRPMIC/SRCLC. All such transferred Recyclable Materials loads shall be included in Scottsdale's annual delivery requirements as set forth in Section 3.2. SRPMIC/SRCLC's transfer services shall accommodate the Transfer Station's daily hours of operation set forth below and shall be conducted to ensure no Recyclable Materials or loaded trailers are stored at the Transfer Station site after the close of daily operations. SRPMIC/SRCLC personnel shall be responsible for the appropriate tarping of each loaded trailer. In the event that Scottsdale elects to deliver a portion of its Recyclable Materials from the Transfer Station to another recycling facility, SRPMIC/SRCLC shall make its trailers and contracted haulers available to Scottsdale for delivery to such other facility but Scottsdale shall bear the expense thereof. Provided, however, in such case, Scottsdale shall not be obligated to pay the Transfer Service fee set forth below.

4.2 Personnel. SRPMIC/SRCLC shall provide qualified personnel to perform the transfer services.

4.3 Vehicles. SRPMIC/SRCLC shall provide suitable vehicles, the suitability of which shall be approved by Scottsdale's Solid Waste Director, to perform its transfer services. Transfer services shall include:

4.3.1 Minimum Trailers. No less than five trailers, each of which shall be a minimum of 50 feet in length and capable of hauling 20 Tons of Recyclable Materials.

4.3.2 Minimum Tractors; Maintenance; Regulations; Storage. No less than two tractors sufficiently powered and appropriately licensed to pull any loaded trailer on public thoroughfares. SRPMIC/SRCLC shall ensure the proper maintenance of all trailers and tractors. All vehicles provided pursuant to this Agreement shall comply with all applicable federal, state, and local laws and regulations. Except when being serviced for repairs or routine maintenance, all tractors and unloaded trailers shall, upon the close of daily operations, be temporarily stored at a Scottsdale-designated location at the Transfer Station site.

4.4 Reports. In addition to the monthly statements required by Section 3.8, SRPMIC/SRCLC shall provide Scottsdale with a tonnage reading for each load of Recyclable Materials it transfers from the Transfer Station to the Facility or the MRF. Each such tonnage reading shall set forth:

- (i) The vehicle identification number;
- (ii) The date and time of delivery;
- (iii) The gross weight of the vehicle as loaded;
- (iv) The Tare Weight of the vehicle (Scottsdale may require SRPMIC/SRCLC to weigh its empty vehicles at SRPMIC/SRCLC's scale no more than once per month in order to determine current accurate Tare Weight);
- (v) The net weight of each load of Recyclable Material; and
- (vi) The calculation of the transfer charge for each load of transferred Recyclable Materials.

4.5 Transfer Station. Scottsdale shall operate the Transfer Station between the hours of 7:00 a.m. and 4:00 p.m., Monday through Friday. Scottsdale may increase the number of hours or days of operation as determined by Scottsdale's Solid Waste Director. Scottsdale shall provide adequate space for the temporary storage of unloaded SRPMIC/SRCLC trailers and tractors at the Transfer Station site. Scottsdale personnel shall be responsible for the loading of trailers with Recyclable Materials to be delivered to the MRF. Scottsdale personnel may move trailers to or from the trailer loading area when necessary to ensure the efficient loading and relocation of trailers at the Transfer Station site.

4.6 Transfer Fee. In addition to the fees set forth above, Scottsdale shall pay a fee to the SRPMIC/SRCLC for the transfer of Recyclable Materials from the Transfer Station to the Facility (the "Transfer Fee"). As of October 1, 2021, the agreed upon Transfer Fee is \$11.13 per Ton. Thereafter, on the Rate Change Date, the Transfer Fee shall be adjusted according to the Rate Adjustment. In no event shall such Rate Adjustment exceed the amount of 3% of the Transfer Fee in effect the day prior to the Rate Change Date.

ARTICLE 5 – DEFAULT; ARBITRATION

5.1 Event of Default. An "Event of Default" shall occur upon the occurrence of any one of the following:

5.1.1 Failure to Make Payments. If either Party fails to pay any sum of money due to the other Party under this Agreement when the same is due, and such failure continues for 30 days after the non-defaulting Party has given the defaulting Party notice specifying the amount due.

5.1.2 Failure of Performance. If either Party fails to perform any other of its material obligations or breaches any other of its material covenants contained in this Agreement and, unless another time limit is specifically stated elsewhere in this Agreement, the breach continues for a period of 60 days after written demand for performance is given by the non-defaulting Party, or, if the breach is of such a character as to require more than 60 days to cure (a "Cure Period") and the breaching Party shall fail to use reasonable diligence in curing such breach, provided, however, that in no event shall any Cure Period exceed 120 days.

5.2 Remedies for Default. Upon the occurrence of an Event of Default, the non-defaulting Party may exercise any remedies available to it at law or in equity and shall proceed in accordance with Section 5.3, Arbitration, to exercise or enforce its remedies.

5.3 Dispute Resolution.

5.3.1 Methods and Priorities. All disputes arising out of this Agreement must be addressed as set forth in this Section 5.3. The Parties agree to try and resolve any dispute arising out of this Agreement first by informal meetings. If informal meetings fail to resolve the dispute, then the Parties agree to try and resolve the dispute through mediation; provided, however, a Party may bypass mediation if emergency measures are sought. If mediation is unsuccessful (or is not required due to emergency measures), then the Parties agree that they shall resolve the dispute through arbitration in accordance with the then current Rules of Commercial Arbitration of the American Arbitration Association or any successor organization (the "AAA"). In the event of a conflict between this Agreement and the AAA Rules, this Agreement shall govern.

5.3.2 Mediation. The Party desiring to initiate the mediation process shall give written notice to that effect to the other Party and, in such written notice, include a brief statement of its claims. Within 10 days of the notice of intent to mediate, the Parties shall meet for the purpose of attempting to jointly select a single mediator to serve in the

matter. If the Parties cannot agree on a single mediator, they shall appoint a single mediator in accordance with AAA Rules. The mediation proceeding shall be held within 60 days of the appointment of the mediator, and the mediator shall render his or her decision within 30 days after the conclusion of the mediation proceeding. If agreed to by the Parties, any mediation conducted pursuant to this Section shall be final and binding on the Parties. The Parties shall bear the cost of the mediation equally between them.

5.3.3 Arbitration. In the event mediation fails, or the Parties do not consent to the mediation being final and binding, the Parties shall proceed to arbitration using the same selection process for the selection of a single arbitrator as was used in selecting a mediator. The arbitration proceeding shall be held within 60 days of the selection of the arbitrator. The arbitrator shall render his or her decision within 30 days after the conclusion of the arbitration proceeding. Any arbitration conducted pursuant to this Section shall be final and binding upon the Parties. The prevailing Party in such arbitration shall be entitled to file the decision and award with the United States District Court in Phoenix, or if the United States District Court lacks jurisdiction, then in the Maricopa County Superior Court and have judgment rendered thereon in accordance with applicable law. The prevailing Party shall be entitled to all costs incurred in connection with the arbitration proceeding, including its reasonable attorneys' fees, the arbitrator's fees, witness fees and other costs as determined by the arbitrator(s).

5.3.4 General Considerations. The Parties may stipulate in writing to extend or to shorten the time periods prescribed in this Section 5.3. All provisions of this Agreement not in dispute shall be observed and performed without interruption during the pendency of the procedures specified in this Section 5.3. By this Agreement, the Community does not waive, limit or modify its sovereign immunity from unconsented suit, except as specifically provided in this Agreement. The Community hereby grants a limited waiver of sovereign immunity for the sole purpose of authorizing an arbitration proceeding as described above and to bring a judicial action in the United States District Court in Phoenix or, if the United States District Court lacks jurisdiction, in the Superior Court of Maricopa County, Arizona, for the enforcement of an arbitration decision or failure to submit to arbitration, if applicable authorized under and related to this Agreement. This limited waiver of sovereign immunity does not consent to or authorize a judicial action for damages against the Community other than the enforcement of arbitration decisions (which includes specific performance of the provisions of an arbitration decision).

ARTICLE 6. GENERAL PROVISIONS

6.1 Duration of Agreement; Term. The term of this Agreement shall commence on the date on which the MRF becomes Operational (the "Effective Date") and continue for five years thereafter (the "Initial Term"). Provided, however, if the MRF is not Substantially Completed by March 31, 2023, or if the MRF is Substantially Completed but is not Operational by July 1, 2023, Scottsdale may elect to terminate this Agreement by providing SRPMIC/SRCLC notice of termination. This Agreement may be extended for up to two five year terms upon mutual agreement of the Parties. On or before ten months before the Initial Term expires, SRPMIC/SRCLC shall notify Scottsdale of SRPMIC/SRCLC's desire to extend the term of this Agreement for an additional five years

(the "First Extension Term"). Scottsdale shall notify SRPMIC/SRCLC within four months of receiving the First Extension notice whether it accepts or rejects the extension. If the Agreement is extended, then on or before ten months before the First Extension Term expires, SRPMIC/SRCLC shall notify Scottsdale of SRPMIC/SRCLC's desire to extend the term for an additional five years (the "Second Extension Term"). Scottsdale shall notify SRPMIC/SRCLC within four months of receiving the Second Extension Notice whether it accepts or rejects the extension. If Scottsdale rejects any extension or fails to respond to SRPMIC/SRCLC within the time periods set forth in this Section 6.1, this Agreement shall terminate at the end of the then-current term. Notwithstanding anything to the contrary in this Agreement, if the processing agreement between the SRPMIC/SRCLC and Operator terminates for any reason, this Agreement shall automatically terminate.

6.2 Applicability of Other Legal Requirements. Nothing set forth in this Agreement diminishes the responsibility of each Party to comply with all applicable laws and regulations affecting the transactions that are the subject matter of this Agreement. The Parties shall comply with any changes in applicable laws or regulations and if such applicable laws and regulations require, modify this Agreement to comply with such applicable laws and regulations. Scottsdale shall ensure that its employees, and agents, and their employees and agents agree to abide by all laws, regulations and ordinances of the Community now in force and effect, or those that may be hereafter in force and effect.

6.3 Indemnification.

6.3.1 SRPMIC/SRCLC. SRPMIC/SRCLC agrees to indemnify, defend and hold Scottsdale, its agents, representatives, officers, officials, directors and employees, harmless from and against any and all liability, suits, obligations, fines, damages, penalties, claims, costs, charges, and expenses (including reasonable attorney fees) of any character or nature resulting from the negligent or willful misconduct of SRPMIC/SRCLC. For purposes of this Section, "negligent or willful misconduct of SRPMIC/SRCLC" shall include any act or omission of SRPMIC/SRCLC, or its assignees or subcontractors under the Agreement, determined by a court or other agency of competent jurisdiction to be negligent, intentional, or a violation of a federal environmental law or this Agreement.

6.3.2 Scottsdale. Scottsdale agrees to indemnify, defend and hold SRPMIC/SRCLC, and their agents, representatives, officers, officials, directors and employees, harmless from and against any and all liability, suits, obligations, fines, damages, penalties, claims, costs charges, expenses (including reasonable attorney fees) of any character or nature resulting from the negligent or willful misconduct of Scottsdale. For purposes of this Section, "negligent or willful misconduct of Scottsdale" shall include any act or omission of Scottsdale, or its assignees or subcontractors under the Agreement, determined by a court or other agency of competent jurisdiction to be negligent, intentional, or a violation of a federal environmental law or this Agreement.

6.4 Insurance Requirements.

6.4.1 Required Coverage.

A. General: SRPMIC/SRCLC, at its own expense, shall purchase and maintain, until all work required under this Agreement is satisfactorily completed, the minimum insurance specified below with companies duly licensed, with a current A.M. Best, Inc. rating of B++6, or approved unlicensed by the State of Arizona Department of Insurance. Any alternative insurer must be approved by Scottsdale's Risk Management Division.

B. Additional insured: The insurance coverage, except Workers Compensation, required by this Agreement shall name Scottsdale, its agents, representatives, officers, directors, officials and employees as additional insured.

C. Primary coverage: SRPMIC/SRCLC's insurance shall be primary insurance as respects Scottsdale, and any insurance or self-insurance maintained by Scottsdale shall not contribute to it.

D. Waiver: The policies, except Workers Compensation, shall contain a waiver of transfer rights of recovery (subrogation) against Scottsdale, its agents, representatives, directors, officers, and employees for any claims arising out of the work of the SRPMFC/SRCLC.

E. Commercial General Liability: SRPMIC/SRCLC shall maintain "occurrence" form Commercial General Liability insurance with a limit of not less than \$1,000,000 for each occurrence, \$1,000,000 Products and Completed Operations Annual Aggregate, and a \$1,000,000 General Aggregate Limit. The policy shall cover liability arising from premises, operations, independent contractors, products-completed operations, personal injury and advertising injury. Coverage under the policy will be at least as broad as Insurance Services Office, Inc. policy form CG 00 01 0798 or equivalent thereof, including but not limited to, separation of insureds clause.

F. Vehicle Liability: SRPMIC/SRCLC shall maintain Business Automobile Liability insurance with a limit of \$2,000,000 each accident with respect to any owned, hired, and non-owned vehicles assigned to or used in the performance of the SRPMIC/SRCLC work or services. Coverage will be at least as broad as Insurance Services Office, Inc. coverage code "1" "any auto" policy form CA 00 01 07 97 or equivalent thereof. Insurance shall include coverage for loading and off-loading hazards.

G. Workers Compensation Insurance: SRPMIC/SRCLC shall carry Workers Compensation insurance to cover obligations imposed by federal and state statutes having jurisdiction of SRPMIC/SRCLC's employees engaged in the performance of the services; and employers' liability insurance of not less than \$100,000 for each accident, \$100,000 disease for each employee and \$500,000 disease policy limit. In case any work is subcontracted, SRPMIC/SRCLC shall

require the subcontractor to provide workers' compensation and employer's liability to at least the same extent as required of SRPMIC/SRCLC.

6.4.2 Certificates of Insurance: Prior to commencing services under this Agreement, SRPMIC/SRCLC shall furnish Scottsdale with Certificates of Insurance, or formal endorsements as required by the Agreement, issued by SRPMIC/SRCLCs' insurer(s) as evidence that policies providing the required coverages, conditions and limits required by this Agreement are in full force and effect. Such certificates shall identify this Agreement and shall provide for not less than 30 days advance Notice of Cancellation, Termination, or Material Alteration. In the event any insurance policy(ies) required by this Agreement is(are) written on a "claims made" basis, coverage shall extend for two years past completion and acceptance of the work or services and/or the termination of this Agreement and as evidenced by annual Certificates of Insurance.

6.5 Notices. Except as otherwise indicated, all notices, waivers, demands, requests and other communications required or permitted by this Agreement (collectively, "Notices") shall be in writing and shall be effective only if sent by one or more of the following methods: (i) personal delivery; (ii) generally-recognized overnight commercial courier regularly providing proof of delivery, with delivery charges prepaid or duly charged; or (iii) United States registered or certified mail, return-receipt requested, postage prepaid, addressed to the Parties at the respective addresses set forth opposite their names below, or to any other address or addresses as either Party shall designate from time to time by notice given to the other in the manner provided in this Section:

If to SRPMIC: Salt River Landfill
 Chief Executive Officer
 4660 N. Beeline Hwy
 Scottsdale, AZ 85256

Copies to: Salt River Pima-Maricopa Indian Community
 Office of the General Counsel
 10005 East Osborn Road
 Scottsdale, AZ 85256

If to Scottsdale: City of Scottsdale
 Solid Waste Management Division
 9191 East San Salvador Drive
 Scottsdale, AZ 85258
 Attention: Solid Waste Director

Copies to: City of Scottsdale
 Office of the City Attorney
 3939 Drinkwater Blvd.
 Scottsdale, AZ 85251

Notices given or served by personal delivery shall be deemed to have been received upon tender to the respective Party. Notices given or served by mail or commercial courier

shall be deemed to have been given or served as of the date of delivery (whether accepted or refused) established by the United States Postal Service return-receipt or the overnight courier's proof of delivery, as the case may be.

6.6 Attorneys' Fees and Court Costs. In any action, at law or in equity, brought to interpret or enforce any of the terms and conditions of this Agreement or to obtain damages arising from any default under or violation of this Agreement, the prevailing Party shall be entitled to recover reasonable attorneys' fees and expenses, expert witness and consultant fees and expenses, court costs, arbitration fees and expenses, and the cost of appellate proceedings, in addition to any other relief to which said Party may be entitled.

6.7 Waiver. No waiver is valid except when signed by the Party giving the waiver. The waiver of any provision of this Agreement shall not be construed as a waiver of: (A) any claims arising from a subsequent breach of that or any other provision of this Agreement; or (B) the obligations under any other provision of this Agreement. The failure of a Party to object to or to take affirmative action with respect to any conduct of any other Party shall not be construed as a waiver of any objection to such conduct, or as a waiver of any claim arising from a future breach or subsequent wrongful conduct. Neither any failure nor any delay on the part of any Party hereto in exercising any right hereunder shall operate as a waiver, nor shall any single or partial exercise of any right hereunder preclude any other or further exercise thereof or the exercise of any other right.

6.8 Joint Participation in Negotiation of Agreement. The Parties have participated jointly with the assistance of counsel in the negotiation and drafting of this Agreement. Parties of equal bargaining power have negotiated this Agreement at arm's length. In the event an ambiguity or question of intent or interpretation arises, this Agreement shall be construed as if drafted jointly by the Parties, and no presumption or burden of proof shall arise favoring or disfavoring any Party by virtue of the authorship of any of the provisions of this Agreement.

6.9 Contract Administrator. The Contract Administrator for Scottsdale shall be the Solid Waste Director or the Director's designee. The Contract Administrator shall be authorized to represent Scottsdale on all matters relating to the performance and enforcement of this Agreement.

6.10 References to Law. Any reference to any federal, state, local or foreign statute, law or ordinance shall be deemed also to refer to all rules and regulations promulgated thereunder, unless the context requires otherwise. The word "including" shall mean including without limitation.

6.11 Calendar Days. Unless otherwise indicated, any reference to a period of days shall mean calendar days (e.g., "10 days" shall mean 10 calendar days).

6.12 Obligations of SRPMIC and SRCLC. SRCLC is a Division of the SRPMIC charged with the responsibility under the laws of the SRPMIC to operate and maintain the landfill, recycling, green waste and related transportation business of the SRPMIC under the name of the SRCLC. SRCLC is not a separate entity but is a Division or Department

of the SRPMIC. The obligations undertaken by the SRPMIC and the SRCLC under this Agreement are obligations of the SRPMIC and its Division, SRCLC, without regard to the fact that the SRCLC will perform those obligations.

6.13 Authority. SRPMIC/SRCLC and Scottsdale each represent, warrant and covenant to the other that they have the right to enter into and make this Agreement.

6.14 Governing Law. This Agreement will be governed by and construed in accordance with the laws of the State of Arizona, except to the extent such laws mandate, require or utilize state court jurisdiction not otherwise contemplated or set forth in this Agreement. The Parties agree that in the event any action is commenced in connection with this Agreement, venue for such action or proceeding shall be proper only in the United States District Court in Phoenix, or if the United States District Court lacks jurisdiction, then in the Superior Court of Maricopa County, Arizona, and Parties hereby waive any right to object to such venue.

6.15 Entire Agreement. This Agreement constitutes the entire agreement between the Parties pertaining to the subject matter hereof, and except as otherwise specified herein, all prior and contemporaneous agreements, representations, negotiations and understandings of the Parties, oral or written, are superseded hereby and merged herein. No subsequent notation, renewal, addition, deletion, or other amendment hereto shall have any force or effect unless embodied in a written amendment or other agreement properly executed by the Parties.

6.16 No Third-Party Beneficiaries. This Agreement will be binding upon and inure solely to the benefit of the Parties and their successors and assigns, and nothing herein, express or implied, is intended to or will confer upon any other person or party any legal or equitable right, benefit, or remedy of any nature whatsoever.

6.17 Severability. If any term or other provision of this Agreement is deemed invalid, illegal or incapable of being enforced by a court of competent jurisdiction, all other terms and provisions of this Agreement will nevertheless remain in full force and effect. Upon such determination, the Parties will negotiate in good faith to modify this Agreement to give effect to the original intent of the Parties as closely as possible.

6.18 Headings. The descriptive headings contained in this Agreement are for convenience of reference only and will not affect in any way the meaning or interpretation of this Agreement.

6.19 No Partnership. Nothing contained in this Agreement will be construed to establish the Parties as partners, joint venturers, or as agents of any other party, and, except as expressly provided herein, neither of the Parties has any power to obligate or bind the other in any manner whatsoever.

6.20 Time of the Essence. Time is of the essence of this Agreement.

6.21 A.R.S. § 38-511. Notice is hereby given of the applicability of A.R.S. § 38-511.

6.22 Effectiveness of Agreement. This Agreement shall become binding upon approval and execution by both Parties.

6.23 Incorporation of Exhibits and Recitals. All Exhibits attached hereto are incorporated herein by this reference as though fully set forth herein, unless specifically stated otherwise. The Parties acknowledge and agree that all of the "Recitals" at the beginning of this Agreement are true and correct and are incorporated herein as binding agreements and obligations of this Agreement by this reference.

6.24 Counterparts. This Agreement may be executed in counterparts, and each counterpart executed by any of the undersigned, together with all other counterparts so executed, shall constitute a single instrument and agreement of the undersigned.

6.25 Non-Default. By executing this Agreement, each Party affirmatively asserts that (A) the other Party is not currently in default, nor has been in default at any time prior to this Agreement, under any of the terms or conditions of the Prior Agreement and (B) any and all claims, known or unknown, relating to the Prior Agreement and existing on or before the date of this Agreement are forever waived.

6.26 Force Majeure. Any delay, omission or failure of performance by either Party under this Agreement shall not constitute default hereunder or give rise to any claim for breach of contract, if and to the extent such delay, omission or failure is caused by or arises by reason of Force Majeure. The Party affected by any Force Majeure event or occurrence shall give the other Party written notice of said event or occurrence within 10 days of such event or occurrence. Notwithstanding the foregoing, unless the Force Majeure event (such as a regional catastrophe or an inability, regardless of price, to secure fuel for the operation of motor vehicles) is of such a large scope and severity that it prevents Inbound Materials from being collected at the MRF, Force Majeure shall not excuse a failure to make any payment required under this Agreement.

[SIGNATURES ON FOLLOWING PAGES]

IN WITNESS WHEREOF, the Parties have executed this Agreement as of the date first written above.

SALT RIVER PIMA-MARICOPA INDIAN
COMMUNITY, a federally recognized Indian
Tribe

By _____
Martin Harvier, President

ATTEST:

Secretary

APPROVED AS TO FORM:

Jennifer K. Giff, General Counsel

SALT RIVER COMMERCIAL LANDFILL
COMPANY, a Division of the Salt River Pima-
Maricopa Indian Community

By _____
_____, Board Chairperson

ATTEST:

Secretary

APPROVED AS TO FORM:

Michael Mainwold, Counsel

[SIGNATURES CONTINUE ON FOLLOWING PAGE]

CITY OF SCOTTSDALE, an Arizona municipal
corporation

By _____
David D. Ortega, Mayor

ATTEST:

Ben Lane, City Clerk

REVIEWED BY:

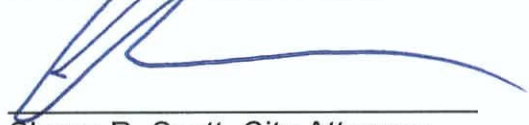


George Woods
Risk Management Director



Dave Bennett
Solid Waste Director

APPROVED AS TO FORM:



Sherry R. Scott, City Attorney
By: Eric C. Anderson
Senior Assistant City Attorney

**EXHIBIT A
TO
RECYCLABLE MATERIALS HANDLING AGREEMENT
BETWEEN
THE SALT RIVER PIMA-MARICOPA INDIAN COMMUNITY,
THE SALT RIVER COMMERCIAL LANDFILL COMPANY
AND
THE CITY OF SCOTTSDALE**

Sale of Material ("SOM") Price and Credit Calculation.

1. Processing of Materials. SRPMIC/SRCLC shall process all Recyclable Materials to meet market specifications as set forth in the Institute of Scrap Recycling Industries, Inc. ("ISRI"), Scrap Specifications Circular 2009, Guidelines for Nonferrous Scrap, Ferrous Scrap, Glass Cullet, Paper Stock, Plastic Stock, Electronics Scrap, Tire Scrap (or the most current version of this document) or, if more stringent, the actual market specifications required by potential material markets. In the event that publication of ISRI is discontinued, the City and SRPMIC/SRCLC shall agree on a mutually satisfactory substitute specification which most nearly duplicates the ISRI. SRPMIC/SRCLC acknowledges that many material markets (end-users, paper mills, etc.) have mill or user-specific specifications that may be more stringent than the ISRI specifications, and SRPMIC/SRCLC further acknowledges that it shall be responsible for meeting any such market specifications in order to maximize during the term of this Agreement, revenue received from the sale of recovered materials.

2. Revenue Share. The Sale of Material Price ("SOM Price") shall be the actual sale price per ton of Recyclable Materials in the material delivered by Scottsdale calculated using the Hand Classification Sort percentages. The Revenue Share due to the City shall be equal to the SOM Price of recovered materials from Recyclable Materials delivered by City to SRPMIC/SRCLC less 20% percent.

3. Sale to Affiliate Companies. SRPMIC/SRCLC shall be responsible to market all recovered materials at the highest reasonably available price. Neither SRPMIC/SRCLC or any subcontractor or agent acting on SRPMIC/SRCLC's behalf may sell recovered materials to an affiliated company without the written consent of City; provided, however, in no event shall any such sale be at a price less than the price which could be reasonably obtained through any other source.

4. SOM Price. The SOM Price shall be the total tonnage of recyclable material delivered by the City less the amount of Residue identified in the Hand Classification Sort Percentage and then multiplied by the sale price of each category of Recyclable Material identified in the Hand Classification Sort. The collective SOM Price (values of all accepted materials) cannot at any time be lower than \$0. The maximum rate the City can be

charged is the current Processing Fee and, if applicable, the tiered pricing true-up described in Section 3.4(c).

5. Disposal Prohibition. SRPMIC/SRCLC shall be prohibited from disposing of any materials that are not Residue except as otherwise provided in this Agreement. In the event of a breach of this provision, in addition to any other remedy available, in no event shall the Processing Fee payable by City to SRPMIC/SRCLC exceed the then applicable amount per ton that the SRPMIC/SRCLC charges for direct disposal in its Landfill.

**EXHIBIT B
TO
RECYCLABLE MATERIALS HANDLING AGREEMENT
BETWEEN
THE SALT RIVER PIMA-MARICOPA INDIAN COMMUNITY,
THE SALT RIVER COMMERCIAL LANDFILL COMPANY
AND
THE CITY OF SCOTTSDALE**

[Facility Map]

See following page.



**EXHIBIT C
TO
RECYCLABLE MATERIALS HANDLING AGREEMENT
BETWEEN
THE SALT RIVER PIMA-MARICOPA INDIAN COMMUNITY,
THE SALT RIVER COMMERCIAL LANDFILL COMPANY
AND
THE CITY OF SCOTTSDALE**

[Hand Classification Sort Procedures and Percentages]

Procedures:

Hand Classification Sort

- A minimum Inbound Materials of 10 tons and no more than 15 tons selected by Operator will be hand processed and weighed
- Hand Classification Sort will take place annually on the second week in September
- Operator will pick the day on which the sort will be conducted
- Operator shall give Scottsdale a minimum of 5 business day notice of the hand sort day of week
- On the day of the Hand Classification Sort, one inbound collection truck will be randomly selected by Operator to dump material off to the side
- On the day of the Hand Classification Sort, one long haul transfer truck will be randomly selected by Operator to dump material off to the side. Due to volume, Operator will pick material from either the front, middle or rear of load. Before the load is dumped, Operator will notify Scottsdale which part of the load will get picked
- City is to provide a minimum of four employees to aid Operator in the Hand Classification Sort and monitoring process
- Operator will use 3-inch screens to mimic what would not be captured by the facility. Items that fall through screens will be treated as Residual.
- Contaminated material will be treated as Residue. Contaminated Material includes pizza boxes with food or oil residue, condiment containers and to-go containers that contain food waste, un-empty bottles, motor oil containers, food contaminated aluminum foil, N95 Masks, chip board, wax-coated boxes, Styrofoam egg cartons, plastic bags/wrap, propane tanks, R34 refrigerant tanks, car batteries, water hoses, clothing and other items that the sorting equipment would reject
- Material will be weighed and shown as percentages

Percentages:

Pricing Schedule	Scottsdale 50%	Scottsdale 75%	Scottsdale 100%
	New River	New River	New River
	12,500.00	18,750.00	25,000.00
Processing Fee	\$ 85.00	\$ 84.00	\$ 83.00
SOM Revenue	\$ 59.05	\$ 59.05	\$ 59.05
Rev Share %	80.0%	80.0%	80.0%
Disposal & Trans	-	-	-
Revenue Share	\$ (47.24)	\$ (47.24)	\$ (47.24)
Net Processing Rate	\$ 37.76	\$ 36.76	\$ 35.76

*SOM Revenue subject to change based on actual Sale of Material Value

Material	Price	Blended Mix	SOM Rev/Ton
OCC/Cardboard	\$ 48.51	25.50%	\$ 12.37
Mixed Paper	\$ -	0.00%	\$ -
ONP	\$ 39.99	31.60%	\$ 12.64
Sorted Office	\$ -	0.00%	\$ -
Sorted White Ledger	\$ -	0.00%	\$ -
HDPE Natural	\$ 690.97	1.00%	\$ 6.91
HDPE Color	\$ 230.00	0.80%	\$ 1.84
PET	\$ 184.67	5.00%	\$ 9.23
#5 Plastic	\$ 99.68	2.30%	\$ 2.29
Metal	\$ 80.00	1.70%	\$ 1.36
UBC	\$ 886.11	1.40%	\$ 12.41
Mixed Glass	\$ -	15.90%	\$ -
Green Glass	\$ -	0.00%	\$ -
Brown Glass	\$ -	0.00%	\$ -
Clear Glass	\$ -	0.00%	\$ -
			\$ 59.05

**EXHIBIT D
TO
RECYCLABLE MATERIALS HANDLING AGREEMENT
BETWEEN
THE SALT RIVER PIMA-MARICOPA INDIAN COMMUNITY,
THE SALT RIVER COMMERCIAL LANDFILL COMPANY
AND
THE CITY OF SCOTTSDALE**

TIERED PRICING

The Processing Fee for 100% of Scottsdale's Inbound Materials during the first year of the Term of this Agreement is \$83.00, adjusted as set forth below for volumes less than 100%. Each year thereafter, the Processing Fee for each range of volume will be adjusted by the Rate Adjustment.

100% of Recyclable Materials	\$83.00 per Ton
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75-99% of Recyclable Materials	\$84.00 per Ton
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0-74% of Recyclable Materials	\$85.00 per Ton
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**EXHIBIT E
TO
RECYCLABLE MATERIALS HANDLING AGREEMENT
BETWEEN
THE SALT RIVER PIMA-MARICOPA INDIAN COMMUNITY,
THE SALT RIVER COMMERCIAL LANDFILL COMPANY
AND
THE CITY OF SCOTTSDALE**

[SAMPLE INVOICE]

See following page.



Republic Services - RIVER
13602 Beeline Highway
Scottsdale, AZ 85256
(480) 850-1224

PAYABLE TO:

INVOICE

Example

INVOICE NO. Example
DATE 4/1/2021
CUSTOMER ID Scottsdale Example

Recyclable Revenue Share Calculation

Commodity	Audited %	Commodity Price/Ton	Revenue Share/Ton
OCC/Cardboard	25.50%	\$100	\$ 25.40
Mixed Paper	0.00%	\$0	-
ONP	31.60%	\$86	\$ 27.28
Sorted Office	0.00%	\$0	-
Sorted White Ledger	0.00%	\$0	-
HDPE Natural	1.00%	\$1,416	\$ 14.16
HDPE Color	0.80%	\$400	\$ 3.20
PET	5.00%	\$129	\$ 6.43
#5 Plastic	2.30%	\$329	\$ 7.58
Metal	1.70%	\$150	\$ 2.55
UBC	1.40%	\$1,263	\$ 17.68
Mixed Glass	15.90%	\$0	-
Green Glass	0.00%	\$0	-
Brown Glass	0.00%	\$0	-
Clear Glass	0.00%	\$0	-
Residue	14.80%	\$0	-
	100.00%		\$ 104.28

Revenue Share \$ 104.28

Share % 80%

Share Amount 83.42

TONS	DESCRIPTION	PRICE/TON	LINE TOTAL
1500.00	Single Stream Material - Scottsdale	\$ 83.42	\$ 125,137.31
			SUBTOTAL \$ 125,137.31
1500.00	Processing Fee	\$ 83.00	\$ (124,500.00)
0.00	Excess Residue	\$ 31.50	-
			TOTAL \$ 637.31